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Medical Freedom, Privacy, and Fear of Discrimination: The 2017 Texas Legislative Session Anti-vaccine Arguments

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Texas is one of 18 states in the U.S. that allow parents to obtain nonmedical exemptions (NMEs) for required school and daycare immunizations based on philosophical or personal beliefs (Olive et al. 2018). Texas first began granting exemptions for medical and religious reasons in 1972 (TX DSHS 2016). In 2003, the Texas legislature passed a law expanding exemptions to allow parents to opt out of vaccinations for reasons of conscience. Since the policy change, conscientious NMEs have increased to 56,738 NMEs in 2017–18 from 2,314 in 2003–04, almost a 25-fold increase (TX DSHS 2016; TX DSHS 2018). This increase in undervaccinated children has raised serious concerns with public health experts within the state. Four Texas cities—Houston, Fort Worth, Plano, and Austin—were identified as “hotspot” metropolitan areas with high rates (more than 400 students) of NMEs for kindergarten students (Olive et al. 2018). Data indicate that high NME rates correlate to lower vaccination rates for vaccines such as the MMR vaccine (measles, mumps, and rubella), leading to a higher risk of outbreaks of vaccine-preventable diseases (Olive et al. 2018; Aloe 2017; Omer 2008; Phadke 2016). In contrast, stricter NME requirements lead to higher vaccination rates and increased public safety (Omer 2012; Shaw 2018).

In the 85th Texas legislative session (in 2017), two vaccine-related bills received public hearings—House Bill 2249 (HB

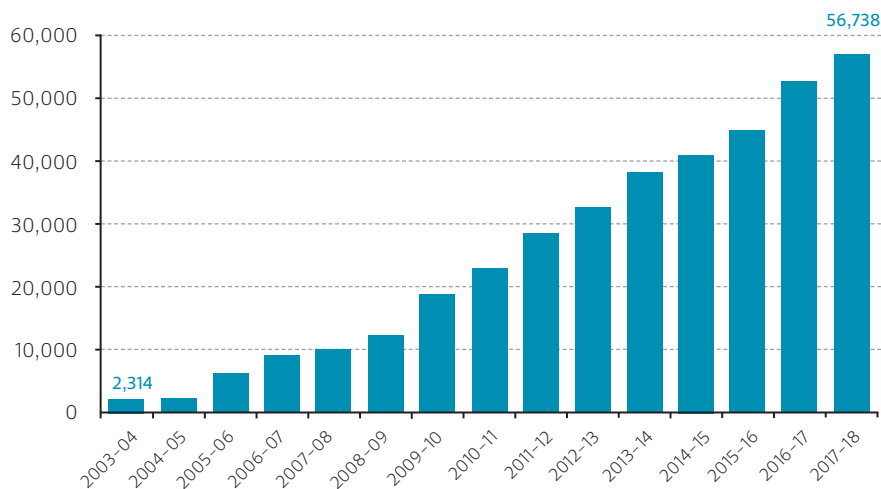
2249) and House Bill 1124 (HB 1124). This paper reviews and analyzes the transcripts from the two hearings to identify key arguments promoting NMEs or opposing school-mandated vaccinations. A series of themes emerged from the testimonies of the witnesses opposed to vaccination requirements. Witnesses argued that the vaccines were unsafe, ineffective, and/or led to increased disease. In addition, several witnesses argued that vaccination requirements violated their personal rights, freedom, and privacy. Still others discussed concerns that families who obtain NMEs will be discriminated against if information on school NMEs was made available. While some of these witnesses acknowledged the public health concerns with NMEs, they emphasized that personal rights are equally if not more important and need to be addressed as well.

LEGISLATIVE HEARINGS: HB 2249 “PARENT’S RIGHT TO KNOW” AND HB 1124 “MAKING NMEs EASIER TO OBTAIN”

The first vaccine-related bill to receive a hearing in the 2017 legislative session was HB 2249 on April 11, 2017. HB 2249 was titled “requirements for and the transparency of epidemiological reports and immunization exemption information and reports” and



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FIGURE 1 — RATE OF NONMEDICAL VACCINE EXEMPTIONS IN TEXAS, GRADES K-12

SOURCE Texas Department of State Health Services, <https://www.dshs.texas.gov/>

was also known as the “Parent’s Right to Know” bill (Texas HB 2249 2017). Sponsored by Public Health Committee Vice Chairman Representative J.D. Sheffield with Representatives John Zerwas, Jim Murphy, and Donna Howard, the bill sought to release campus-level medical and nonmedical vaccine exemption rates publicly on the Texas Department of State Health Service (TX DSHS) website. Currently, the state releases data about NMEs at the school district level. However, for larger districts such as the Houston Independent School District (HISD) with more than 250 schools and approximately 200,000 students, this aggregate data does little to show public health officials where NME rates are higher or lower (HISD 2018). Information on the NME rate for each school is important for parents of immunocompromised children searching for schools with high vaccination rates, which would reduce the likelihood of their child being exposed to vaccine-preventable diseases.

The public hearing for HB 2249 was part of a session that covered multiple public health bills and lasted more than seven hours. Thirty-five witnesses registered to speak about the bill: 12 were reported ‘for,’ 22 ‘against,’ and one person from TX

DSHS testified ‘on’ the bill (Texas House Committee 2017a). The witness who reported ‘on’ the bill did not support or oppose the bill but officially added details about how the bill could be implemented and its impact.

On April 25, 2017, the second vaccine-related bill received a hearing. HB 1124, sponsored and introduced by Representative Matt Krause with Representatives Kyle Biedermann, Briscoe Cain, Mark Keough, Scott Sanford, Jonathan Stickland, Valoree Swanson, and Tony Tinderholt, sought to increase access to NMEs (Texas HB 1124 2017). HB 1124 was frequently characterized by witnesses as an anti-vaccination bill because it would make it easier to opt out of mandatory vaccinations. State law requires that parents who want to obtain an NME apply in writing for an exemption affidavit from the TX DSHS. HB 1124, titled “claiming an exemption from required immunization for public school students,” would remove the written requests requirement. This change would allow the NME form to be available and printed out from the TX DSHS website. The goal of the bill was to make it easier to obtain immunization exemptions (Texas House Committee 2017b).

The HB 1124 hearing also covered multiple bills and lasted more than nine hours. Twenty-nine witnesses registered to speak about the HB 1124 during the hearing. Only one person was listed ‘for,’ and four people testified ‘on.’ The majority (24) were ‘against’ the bill (Texas House Committee 2017b). Additional people registered, but did not testify, with 14 reported as ‘for’ and 70 ‘against’ the bill.

ANALYSIS OF WITNESS STATEMENTS

To better understand the concerns of individuals opposed to school-mandated vaccines, video from each hearing was reviewed and transcribed. Based on their testimony, witnesses were classified as “promoting,” “neutral,” or “against” vaccines. From the two hearings, there were 20 witnesses from the HB 2249 hearing and six witnesses from HB 1124 hearing categorized as “against” school-mandated

vaccinations. Of note, not all individuals reported as against a bill testified, and they were therefore excluded from the sample. In addition, although individuals “against” vaccinations were believed to be promoting HB 1124, several individuals “against” vaccines testified in opposition to the bill due to their belief that the reporting requirements in HB 1124 conflicted with their privacy rights.

During both hearings, witnesses suggested that vaccines were ineffective, unsafe, and unnecessary (Tan and Matthews 2018). In addition, it was suggested that the consequences of vaccine-preventable diseases were minor—for instance getting the measles was less dangerous than the vaccine preventing measles. The concerns about vaccines were predominately articulated and supported by personal narratives and stories.

In addition to discussions about the safety of vaccination, several other themes were present in the witness statements from those who did not support school-mandated vaccines. These witnesses often described the law in terms of violating their personal liberties. They discussed infringement of their “rights,” “freedom,” and/or “privacy” (see Table 1). The term “medical privacy” was most frequently used. The anti-vaccine witnesses were also concerned that they would face discrimination if there were additional reporting requirements, using terms such as “harassment,” “bully,” and “discrimination”—although no specific examples of harassment were given. In reviewing witness testimonies from the hearings, these terms and concepts were especially prevalent during the hearing for HB 2249 since there were more anti-vaccine witnesses present (20 compared to six).

MEDICAL FREEDOM: OUR RIGHT TO DO WHAT WE WANT TO OUR BODIES

Although HB 2249 would not eliminate or even limit NMEs, some opponents perceived it as doing so. The most prominent theme from these individuals was that mandated vaccinations would impact a citizen’s medical freedom and personal rights. These witnesses

perceived publicly available NME records at the school level as a restriction of parental rights. Furthermore, they viewed it as the government interfering in a private matter.

My son is my responsibility. It is my responsibility to keep him safe and healthy. The responsibility for my son does not fall on the state or any other family, and I would never rely on the herd to keep my son safe. (HB2249-07)¹

You cannot simply legislate risk out of society. You can’t legislate freedom out of society, and that’s what I think we’re doing. This bill, to me, takes us on a slippery slope that diminishes our medical freedom... I personally think that that choice needs to be left between the parents and the doctors. (HB2249-03)

Beyond the witness comments, there were also several moments during the hearings when a committee member, Representative Bill Zedler, challenged a

Four Texas cities—Houston, Fort Worth, Plano, and Austin—were identified as “hotspot” metropolitan areas with high rates of NMEs for kindergarten students.

TABLE 1 — FREQUENCY OF KEYWORDS MENTIONED IN TESTIMONIES FROM ANTI-VACCINE WITNESSES DURING THE HB 2249 AND HB 1124 HEARINGS

Hearing	HB 2249	HB 1124
Keywords Associated with Personal Liberties		
Rights	10	1
Freedom	4	4
Privacy	5	0
Medical Privacy	14	0
Keywords Associated with Discrimination		
Harassment	7	0
Bully	12	0
Discrimination	4	1
Other [segregation, judgment, isolate, ostracize, wishes of harm]	11	1

SOURCE Authors’ own research.

Stricter NME requirements lead to higher vaccination rates and increased public safety.

witness about school-mandated vaccines. Several interactions could be described as hostile or aggressive. For example, during the HB 1124 hearing Representative Bill Zedler, who believes vaccines infringe on an individual's rights and personal freedom, confronted a witness who was advocating for vaccinations.

Rep. Zedler: "I think there's a fundamental disagreement. What you believe is people should be forced to put something in their body and other people believe 'no.' The individual, that's what this whole nation was founded upon, individual freedom, the freedom to determine what's in my best interest and my children's best interest and is not up to you and is not up to [the] state. There is a difference."

Witness (HB1124-14): "If I can respond, I think that I agree with you to a point. If you want to live in a cabin by yourself on some land and you want to farm and you're not going to be around people, you can drive as fast as you want and you can do whatever you want when it doesn't affect other people. I can't drive 200 miles an hour down the freeway it's my car I own it. There's a lot of other things I can't do."

Rep. Zedler: "I'm sorry, you're making a wrong analogy. If I don't take the vaccine then I'm the one that's at risk and the fact of the matter is that if you take the vaccine, that's great! I'm happy for you but I should not have, you know, I should not be forced to take a vaccine.... In this country we don't have Soviet style medicine. In this country, we don't believe in forcing people to do things."

MEDICAL PRIVACY: OUR DECISIONS SHOULD REMAIN CONFIDENTIAL AND UNREPORTED

Another predominant theme was privacy, with more than 19 mentions by those opposed to vaccinations (Table 1). Some witnesses saw any reporting or release of personal medical information to the public, even de-identified data, as an invasion of

their privacy. This theme was very prevalent during the first hearing for HB 2249.

I don't want anybody in the government to know my kid's medical information it's all private to my family. (HB2249-15)

Vaccination decisions should always be remained confidential. Even de-identified information is a violation of medical privacy by letting out what should be private information. (HB2249-19)

Interestingly, several witnesses who were against mandatory vaccinations opposed HB 1124 for privacy reasons. Their main concern was related to the immunization tracking system and database. Despite allowing them to receive NMEs more easily, they believed this bill did not provide specific verbiage protecting their privacy. It still required that they obtain the form from the TX DSHS website, which would keep track of who downloaded the form. While this is the case for the current system to obtain NMEs, the witnesses believed the government should not track any personal information, including if you did or did not receive a vaccination.

Anytime you go to state website, and enter in your name and whatever you're trying to get, you are now on a database which makes you trackable. So I'm opposed to the bill because if that is the method which to receive the exemptions, your name is going into the database... And we are nation of freedom, so that's why I come oppose the bill. (HB1124-28)

DISCRIMINATION: REPORTING WILL LEAD TO HARASSMENT OF THE NON-VACCINATED

Beyond privacy and rights claims, witnesses suggested that the increased reporting would lead to discrimination against parents and children who received NMEs. Specifically addressed in the HB 2249 hearing, the belief was that reporting NMEs at the school level would create divisions among families in the community. These witnesses were worried that HB 2249 could result in bullying,

harassment, and discrimination against children who obtain exemptions.

The bill places safety and well-being of one group of children above the safety and well-being of the whole and allows the creation of an environment of division and hostility among those and otherwise peaceful close-knit communities. It's my opinion that the goal of this bill creates a situation where families utilizing exemptions are bullied simply for following deeply held beliefs. Harassment, bias, and retaliation against their children is a real threat. (HB2249-20)

It does nothing to improve public health in Texas, and at the same time, it increases the risk of medical privacy breaches, bullying, harassment, and discrimination. (HB2249-05)

CONCLUSION: WHAT WE LEARNED

At the end of the 85th Texas legislative session, neither bill passed. HB 2249 was voted out of the committee and the House, and it did not receive a hearing or vote in the Senate before the end of the session. HB 1124 did not get voted on by the House Committee on Public Health and was left pending in committee at the end of the session.

The HB 2249 and HB 1124 legislative hearings demonstrate that while anti-vaccine advocates are still concerned about the safety of vaccinations, they are also concerned about philosophical issues. Overall, fear, uncertainty, and skepticism were the prevalent sentiments among these witnesses—both directed toward the medical community as well as the government. These witnesses promoted the idea that school vaccine mandates were against their personal liberties, including their medical rights, medical privacy, and medical freedom. They believed these ideas override public health concerns or safety.

Improving state public health and promoting policies to improve school-mandated vaccines will require interested and invested stakeholders—including

physicians, public health experts, policy scholars, parents, and the interested public—to educate and engage state legislators about vaccines, the impact of vaccine-preventable disease, and the risks associated with putting absolute individual rights above public health concerns.

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ENDNOTES

1. Witnesses were de-identified and numbered based on the hearing they participated in. For full hearing testimonies see (Texas HB 2249) and (Texas HB 1122).

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